

ANALYSIS

This ordinance amends Title 12 – Environmental Protection of the Los Angeles County Code by revising the fees for the hazardous materials, hazardous waste, site mitigation, and the California Accidental Release Prevention programs; changing the method for determining the timing of a late payment; and adding a new permitting program and associated fees for aboveground petroleum storage tanks.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By



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SK:gjh

05/10/10 (Requested)

07/27/10 (Revised)

ORDINANCE NO. 2010-0044

An ordinance amending Title 12 – Environmental Protection of the Los Angeles County Code relating to increasing fees for the hazardous materials, hazardous waste, site mitigation, and the California Accidental Release Prevention programs; changing the method for determining a late payment; and to add a new permitting program for aboveground petroleum storage tanks.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 12.50.010 is hereby amended to read as follows:

12.50.010 Definitions.

The following definitions govern the construction of this chapter:

...

R. "Unified program facility permit" or "permit" means a consolidated permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permits issued pursuant to: section 25284 of the H&SCalifornia Health and Safety Code and Division 4 of Title 11 of the County Code relating to the underground storage of hazardous materials; Chapter 12.52 of the County Code relating to the generation or handling of hazardous waste or extremely hazardous waste; Chapter 12.64 of the County Code relating to handling of hazardous materials or acutely hazardous materials; Chapter 12.70 of the County Code relating to the aboveground storage of petroleum; and those city codes or resolutions related to the unified program elements administered by those cities as participating agencies to the LACoCUPA.

SECTION 2. Section 12.50.030 is hereby amended to read as follows:

12.50.030 Program elements.

The provisions of this chapter apply to the following unified program elements which have been consolidated under the Act:

...

B. Aboveground Petroleum Storage Tank Program, Spill Prevention, Control and Countermeasures Plan set forth in Chapter 6.67 of Division 20 of the ~~H&SC~~ California Health and Safety Code and in accordance with the requirements of the implementation plan;

...

SECTION 3. Section 12.50.040 is hereby amended to read as follows:

12.50.040 Program element eCounty codes and fees.

A. The annual fees for the program elements administered by the LACoCUPA under the single fee system shall be established by the following chapters of the eCounty eCode:

...

4. The fees established in Title 12, Environmental Protection, Chapter 12.70, Aboveground Petroleum Storage, of the Los Angeles County Code shall apply to the Aboveground Petroleum Storage Program as referenced in Section 12.50.030 B of this chapter.

...

SECTION 4. Section 12.50.060 is hereby amended to read as follows:

12.50.060 Late payment penalty.

If any fee required to be paid pursuant to Sections 12.50.040, 12.50.050, and 12.50.075 of this chapter is not paid in full prior to the delinquency date as defined in Section 12.50.055 of this chapter, in addition to such fee(s), the facility or permittee shall pay a late payment penalty equal to 40 percent of the total assessed fee(s). If payment is made by mail, the date of payment is ~~determined by the postmark~~ the date payment is received.

SECTION 5. Section 12.52.070 is hereby amended to read as follows:

12.52.070 Fees to be paid by hazardous waste generators.

A. Beginning with the ~~200710-200811~~ fiscal year, the annual fee, for the issuance of a unified program facility permit for the hazardous waste program element required to be paid to the ~~f~~Forester and ~~f~~ire wWarden by every person, business, or business concern generating or handling a hazardous or extremely hazardous waste shall be as follows:

Fee Group	Number of Employees	Annual Fee
1	0 to 5	\$571.00 <u>590.00</u>
2	6 to 19	794.00 <u>828.00</u>
3	20 to 100	1,081.00 <u>1,131.00</u>
4	101 to 500	1,569.00 <u>1,644.00</u>
5	501 or more	2,688.00 <u>2,815.00</u>

Exception:

Every person, business, or business concern generating or handling a hazardous waste which is hazardous solely due to the presence of silver and which generates no other hazardous wastes shall be charged a fee equal to one-half the amount of the ~~Fee~~ Group 1 fee. Beginning with the ~~200710-200811~~ fiscal year, this fee shall be ~~\$286.00~~295.00.

B. Beginning with the ~~200710-200811~~ fiscal year, the annual fee required to be paid to the ~~Forester and Fire w~~Warden by every person, business, or business concern that is a hazardous waste generator conducting treatment of hazardous waste under the Act shall be based on the highest tier of permit required in descending order as follows:

Permit Tier	Annual Fee
(1) Permit by Rule (PBR)	\$1,285.00 <u>1,308.00</u>
(2) Conditional Authorization (CA)	899.00 <u>916.00</u>
(3) Conditional Exemption (CE)	425.00 <u>139.00</u>

C. Every hazardous waste generator that has been issued a notice of violation as specified in Section 12.52.015.~~OP~~ of this chapter and has failed to correct the violation(s) or deviation(s) by the correction date as set forth in the notice of violation may be charged a reinspection fee for each reinspection required to verify compliance

with the notice of violation. Beginning with fiscal year 200510-200611, the reinspection fee shall be \$~~285.00~~304.00.

D. Beginning with the 200010-200411 fiscal year, the schedule of fees contained in this section may be adjusted annually by the following procedures:

...

SECTION 6. Section 12.52.080 is hereby amended to read as follows:

12.52.080 Permit--Penalty for late fee payment.

If any fee required to be paid pursuant to Sections 12.52.040, 12.52.060, or 12.52.070 of this chapter is not paid in full prior to the delinquency date as defined in Section 12.52.075 of this chapter, in addition to such fee, the applicant shall pay a late fee equal to 40 percent of the total assessed fee(s). If payment is made by mail, the date of payment is ~~determined by the postmark~~the date payment is received.

SECTION 7. Section 12.56.020 is hereby amended to read as follows:

12.56.020 Emergency response cost recovery.

...

B. Any person whose intentional or negligent action caused the incident, as specified in Section 12.56.020A, shall be assessed an administrative charge for the response and additional emergency response charges, based upon hourly personnel costs, as approved by the eCounty aAuditor-eController, to recover the costs incurred by the fForester and fFire wWarden to protect the public from threats to public health and safety and any actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material. Beginning in fiscal year 200710-0811,

the administrative charge shall be \$466.00 and the personnel hourly rates shall be as charged at the rate of ~~\$116.67~~\$139.35 per hour.

...

SECTION 8. Section 12.56.060 is hereby amended to read as follows:

12.56.060 Late payment.

If any charge required to be paid pursuant to this chapter is not paid prior to the 31st day ~~after the date of the first invoice requesting payment of the charge~~delinquency date as defined in Section 12.52.075, in addition to such charge, the person shall pay a penalty equal to 40 percent of the charge. Date of payment is ~~determined by~~ postmark the date payment is received.

SECTION 9. Section 12.56.067 is hereby amended to read as follows:

12.56.067 Late payment--Lien against person authorized when.

If any charge and late payment penalty imposed pursuant to this Chapter 12.56 is not paid within ~~60~~30 days after the delinquency date of the first invoice requesting payment of the charge as defined in Section 12.52.075, a certificate of lien, as authorized by section 101345 of the California Health and Safety Code, may be recorded ~~against~~upon all real property in the County owned or later acquired by any person whose intentional or negligent action caused the incident as described in Section 12.56.020.

SECTION 10. Section 12.60.050 is hereby amended to read as follows:

12.60.050 Site mitigation oversight fees.

...

B. The responsible party or person requesting oversight shall be assessed an initial oversight fee to recover the costs of the fForester and fFire wWarden to initially review and analyze the site, submitted site assessment reports, site history, and determine site regulatory requirements, site priority, and lead agency status. This fee shall be based upon average hourly personnel costs incurred by the fForester and fFire wWarden to conduct this initial review, as approved by the eCounty aAuditor-eController. Beginning in fiscal year 200710-0811, this fee shall be \$1,974.00 for each site accepted by the fForester and fFire wWarden.

C. The responsible party or the person requesting oversight by the hHealth hHazardous mMaterials dDivision's site mitigation unit shall be required to pay oversight fees, based upon hourly personnel costs incurred by the fForester and fFire wWarden to review and oversee site assessment and remediation activities over and above the initial review fee in Section 12.60.050 B, as approved by the eCounty aAuditor-eController. Beginning in fiscal year 200710-0811, the hourly rate shall be \$131.58158.27.

SECTION 11. Section 12.60.060 is hereby amended to read as follows:

12.60.060 Late payment.

If any fee required to be paid pursuant to this chapter is not paid prior to the 31st day after the date of the first invoice requesting the fee delinquency date as defined in Section 12.52.075, in addition to such fee, the applicant shall pay a penalty equal to 40 percent of the total assessed fee(s). Date of payment is ~~determined by postmark~~ the date payment is received.

SECTION 12. Section 12.60.062 is hereby amended to read as follows:

12.60.062 ~~Late payment--Lien against responsible party or person~~
~~requesting oversight authorized when.~~

If any fee and late payment penalty imposed pursuant to this Chapter 12.60 is not paid within ~~630~~ days after the ~~date of the first invoice requesting payment of the~~ feelinquency date as defined in Section 12.52.075, a certificate of lien, as authorized by section 101345 of the California Health and Safety Code, may be recorded ~~against~~upon all real property in the County owned or later acquired by the responsible party or person requesting oversight, as specified in Section 12.60.050.

SECTION 13. Section 12.64.010 is hereby amended to read as follows:

12.64.010 Definitions.

The following definitions govern the construction of this chapter:

...

B. "Administering agency" means the ~~h~~H~~ealth~~ ~~h~~H~~azardous~~ ~~m~~M~~aterials~~
~~d~~D~~ivision~~ of the ~~f~~F~~orester~~ and ~~f~~F~~ire~~ ~~w~~W~~arden~~ acting as the Certified Unified Program Agency as defined in Section 12.50.010 and the local agency authorized pursuant to Section 25502 of the Act to implement and enforce the Act.

C. "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, limited liability company, or association.

"Business" includes a business organized for profit and a nonprofit business.

"Business" also includes every governmental agency.

D. "Chief" means the ~~d~~Division ~~c~~Chief of the ~~h~~Health ~~h~~Hazardous ~~m~~Materials ~~d~~Division of the ~~f~~Forester and ~~f~~Fire ~~w~~Warden. "Chief" also means any authorized representative of the ~~f~~Forester and ~~f~~Fire ~~w~~Warden charged with the enforcement of the Act.

E. "Compressed gas" shall have the same meaning as defined in Section 3002.1 of Title 32, Fire Code, of the Los Angeles County Code.

~~E~~F. "Covered process" means a process that has a regulated substance present in more than a threshold quantity.

~~F~~G. "Forester and ~~f~~Fire ~~w~~Warden" means the ~~f~~Forester and ~~f~~Fire ~~w~~Warden of the ~~e~~County of Los Angeles and the Consolidated Fire Protection District of Los Angeles County.

~~G~~H. "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material or regulated substance in any fashion and includes the use or potential use of a quantity of hazardous material or regulated substance by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any of the above purposes or activities.

~~H~~I. "Handler" means any business which handles a hazardous material or regulated substance.

~~I~~J. "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to,

hazardous substances, hazardous waste, and any material which a handler or the administering agency has reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or environment.

~~JK~~. "Notice of violation" means a written notice issued to a handler or a business with a covered process by an authorized representative of the ~~f~~Forester and ~~f~~Fire wWarden in the course of conducting an inspection which:

1. Identifies violations of the Act or deviations from minimum standards and regulations adopted pursuant to the Act;
2. Is presented to a person who is an owner or employee of the business being inspected; and
3. States the nature of the violations or deviations, the means by which compliance with the permit conditions, rules, regulations, standards, or other requirements cited by the inspector may be achieved, and a time limit in which to comply, which shall not exceed 30 days.

~~KL~~. "Permittee" shall have the same meaning as defined in Section 12.50.010.

~~LM~~. "Process" means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of the regulated substance or any combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located so that a regulated substance could be involved in a potential release, shall be considered a single process.

MN. "Qualified person" means a person who is qualified to attest, at a minimum, to the completeness of an RMP.

NO. "Regulated substance" or "RS" means any substance as defined in section 25532(g) of the Act.

OP. "Regulated substances accident risk" means a potential for the accidental release of a regulated substance into the environment that could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.

Q. "Restaurant" shall have the same meaning as defined in section 11.02.320 of Title 12, Health and Safety, of the Los Angeles County Code.

PR. "Risk management plan" or "RMP" means the risk management plan required under Part 68 (commencing with section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and the California Health and Safety Code, Chapter 6.95, Article 2.

QS. "State threshold quantity" means the quantity of a regulated substance adopted by the State Office of Emergency Services pursuant to section 25543.1 or 25543.3 of the Act. Until the office adopts a state threshold quantity for a regulated substance, the state threshold quantity shall be the threshold planning quantity for the regulated substance specified in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

RT. "Stationary source" means any stationary source, as defined in section 68.3 of Title 40 of the Code of Federal Regulations.

SU. "Threshold quantity" or "TQ" means the quantity of a regulated substance that is determined to be present at a stationary source in the manner specified in section 68.115 of Title 40 of the Code of Federal Regulations and that is the lesser of either of the following:

1. The threshold quantity for the regulated substance specified in section 68.130 of Title 40 of the Code of Federal Regulations;
2. The state threshold quantity.

TV. "Unified program facility permit" shall have the same meaning as defined in Section 12.50.010.

SECTION 14. Section 12.64.040 is hereby amended to read as follows:

12.64.040 Annual fees to be paid by handlers of hazardous materials.

Beginning with the ~~2007~~10-08~~10~~11 fiscal year, the annual fee required to be paid to the ~~f~~Forester and ~~f~~Fire wWarden by every handler of hazardous materials for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
I	Small Quantity Handler	\$216.00 <u>226.00</u>
	55--500 gallons or	
	500--5,000 pounds or	
	200--2,000 cubic feet or	

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
	TQ or greater quantity of a RS if less than 500 pounds	
	And no more than one hazardous material handled	
II	Minor Handler	310.00 <u>328.00</u>
	55--500 gallons or	
	500--5,000 pounds or	
	200--2,000 cubic feet or	
	TQ or greater quantity of a RS if less than 500 pounds	
	And more than one hazardous material handled	
III	Moderate Handler	396.00 <u>420.00</u>
	501--2,750 gallons or	
	5,001--25,000 pounds or	
	2,001--10,000 cubic feet	
IV	Major Handler	543.00 <u>581.00</u>
	2,751--50,000 gallons or	
	25,001--500,000 pounds or	
	10,001--200,000 cubic feet	

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
V	Major Handler--Large Volume	768.00 <u>829.00</u>
	50,001 gallons and over or	
	500,001 pounds and over or	
	200,001 cubic feet and over	
VI	Major Handler--Complex	1,193.00 <u>1,276.00</u>
	175,001 gallons and over or	
	700,001 pounds and over or	
	250,001 cubic feet and over or	
	A total quantity of two or more hazardous materials when expressed in or converted to pounds that equals 500,000 pounds or greater;	
	AND	
	Which is either a refinery, chemical plant, distillery, bulk plant, or terminal as defined herein.	

...

VII	Exempt Handler Less than 55 gallons and Less than 500 pounds and Less than 200 cubic feet and, For RS, Less than TQ quantity of RS	No Fee
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Exemption 1:

Any facility with underground fuel tanks, regardless of quantity shall be considered to be a Fee Group II facility, unless the total quantity of hazardous materials handled other than motor vehicle fuels at any one time during the reporting year exceeds the Fee Group II quantity limits in which event the facility shall fall into the appropriate Fee Group category above based upon the total quantity of hazardous materials handled other than motor vehicle fuels.

Exemption 2:

When a business is a farm which both receives from and submits its business plan and/or inventory forms directly through the County Agricultural Commissioner, any fees, annual adjustments, or late fees shall be established by and paid to the County Agricultural Commissioner.

Exemption 3:

Any person, business, or business concern which conducts, exclusively for charitable purposes, an activity for which a fee is required under this chapter and from which no person benefits through the distribution of profits, payment of excessive charges or compensation, or the more advantageous pursuit of their business, or profession shall not be charged any fee. Facts supporting entitlement to such exemption from a fee requirement shall be shown by affidavit filed with the fForester and fFire wWarden. Any person, business, or business concern which conducts an activity for which a fee is required to be paid by this chapter shall be deemed to qualify for a fee exemption if it

complies with ~~S~~section 214 of the California Revenue and Taxation Code as now and hereafter amended.

Exemption 4:

Any person, business, or business concern operating a restaurant that handles/stores carbon dioxide in quantities not exceeding the following thresholds shall be exempted from the requirement:

(a) Carbon dioxide non-liquefied compressed gas used for carbonation of beverages and stored in quantities of not more than 6,000 cubic feet at standard temperature and pressure.

(b) Carbon dioxide liquefied compressed gas (refrigerated) used for carbonation of beverages and stored in quantities of not more than 3,500 cubic feet at standard temperature and pressure.

Exception:

~~When a business is a farm which both receives from and submits its business plan and/or inventory forms directly through the office of the county agricultural commissioner, any fees, annual adjustments or late fees shall be established by and paid to the office of the county agricultural commissioner.~~

SECTION 15. Section 12.64.045 is hereby amended to read as follows:

12.64.045 Reinspection fees to be paid by handlers of hazardous materials.

Every hazardous materials handler or any business with a covered process that has been issued a notice of violation pursuant to Section 12.64.010 J of this chapter

and has failed to correct the violations or deviations by the correction date as set forth in the notice of violation may be charged a reinspection fee for each reinspection required to verify compliance with the notice of violation. Beginning in fiscal year 200610-200611, the reinspection fee shall be ~~\$285.00~~304.00.

SECTION 16. Section 12.64.050 is hereby amended to read as follows:

12.64.050 Additional fees--Regulated substances.

A. Every business with a covered process shall in addition to the fee specified in Section 12.64.040, be required to pay an annual RS fee to the ~~f~~Forester and ~~f~~Fire wWarden for the administration and enforcement of RS registration, risk assessment, and risk mitigation in accordance with compliance under the Act.

B. Beginning with the 200710-0811 fiscal year, the annual fee for the issuance of a unified program facility permit for a stationary source, required to be paid to the ~~f~~Forester and ~~f~~Fire wWarden by every person, business, or business concern handling, storing, or using a regulated substance above threshold quantities (RS fee) shall be as follows:

Fee Group	Risk Unit	Annual Fee
I	>0 and <5	\$383.00 <u>463.00</u>
II	=>5 and <15	672.00 <u>813.00</u>
III	=>15 and <50	4,207.00 <u>1,460.00</u>
IV	=>50 and <100	2,310.00 <u>2,793.00</u>
V	=>100 and <250	3,904.00 <u>4,721.00</u>
VI	=>250 and <500	6,297.00 <u>7,614.00</u>

Fee Group	Risk Unit	Annual Fee
VII	=>500 and <1,000	11,401.00 <u>13,786.00</u>
VIII	=>1,000 and <3,000	17,414.00 <u>21,057.00</u>
IX	=>3,000 and <10,000	23,239.00 <u>28,100.00</u>
X	=>10,000	29,048.00 <u>35,125.00</u>

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SECTION 17. Section 12.64.060 is hereby amended to read as follows:

12.64.060 Late submission fee.

A late submission fee shall apply to the filing requirements of both the business plan and inventory and to the RS registration requirements as follows:

Each handler failing to submit the required hazardous materials business plan or inventory documents and each stationary source failing to submit the required RS reporting documents in accordance with the established due date and reporting requirements of the administering agency as specified in Section 12.64.030 shall be levied a late submission fee commensurate to the additional administrative costs as determined by the administering agency and approved by the eCounty aAuditor-eController. The date of submission is determined by the ~~postmark date if mailed or the date payment is received if hand-carried~~. The late submission fee shall be ~~\$285.00~~331.00.

SECTION 18. Section 12.64.065 is hereby amended to read as follows:

12.64.065 Late payment penalty.

If any fee required to be paid pursuant to Sections 12.64.040 through 12.64.060 of this chapter is not paid prior to the ~~61st day after the date of the first invoice requesting payment of the fee~~delinquency date as defined in Section 12.52.075, in addition to such fee, the handler shall pay a penalty equal to 40 percent of the total assessed fee(s). Date of payment is ~~determined by postmark~~the date payment is received.

SECTION 19. Section 12.64.067 is hereby amended to read as follows:

12.64.067 Late fee payment--Lien authorized when.

If any fee and late fee required to be paid by this chapter are not paid within ~~630 days after the date of the first invoice requesting payment of the fee~~30 days after the date as defined in Section 12.52.075, a certificate of lien may be recorded ~~against~~upon all real property in the County owned or later acquired by the permittee or person liable for payment of such fee(s) and any late payment penalty as authorized by section 101345 of the California Health and Safety Code.

SECTION 20. Chapter 12.70 is hereby added to read as follows:

Chapter 12.70

Aboveground petroleum storage

Sections:

- | | |
|------------------|---|
| 12.70.010 | Definitions. |
| 12.70.020 | Designation as administering agency. |
| 12.70.030 | Permit--Application requirements. |
| 12.70.040 | Compliance required. |

12.70.050	Annual fees to be paid by operators of a tank facility.
12.70.060	Reinspection fees to be paid by operators of a tank facility.
12.70.070	Period to which fees apply.
12.70.080	Late payment penalty.
12.70.090	Late fee payment--Lien authorized when.
12.70.100	Fee schedule--annual adjustment procedure.
12.70.110	Permit--Period of validity--Renewals.
12.70.120	Disputes and appeals of assessed fee.
12.70.130	Collection and accounting requirements.
12.70.140	Re-issuance of a lost permit.
12.70.150	Severability.

12.70.010 Definitions.

The following definitions govern the construction of this chapter:

- A. "Aboveground storage tank" shall have the same meaning as defined in section 25270.2(a) of Division 20 of the California Health and Safety Code.
- B. "Act" means the Aboveground Petroleum Storage Act (APSA), Chapter 6.67 (commencing with section 25270) of Division 20 of the California Health and Safety Code.
- C. "Administering agency" means the Health Hazardous Materials Division of the Forester and Fire Warden acting as the Certified Unified Program Agency as defined in Section 12.50.010, and the local agency authorized pursuant to section 25270.4 of the Act to implement and enforce the Act.
- D. "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, limited liability company, or association. "Business" includes a business organized for profit and a nonprofit business. "Business" also includes every governmental agency.

E. "Chief" means the Division Chief of the Health Hazardous Materials Division of the Forester and Fire Warden. Chief also means any authorized representative of the Forester and Fire Warden charged with the enforcement of the Act.

F. "Forester and Fire Warden" means the Consolidated Fire Protection District of Los Angeles County and the Forester and Fire Warden of the County of Los Angeles, (collectively known as the "Los Angeles County Fire Department"), or any representative of the Forester and Fire Warden duly authorized to carry out the provisions of this chapter.

G. "Handler" means any business which handles a hazardous material or regulated substance.

H. "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the administering agency has reasonable basis for believing it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or environment.

I. "LACoCUPA" means the Forester and Fire Warden as the designated agency certified by the Secretary of the California Environmental Protection Agency to

implement the unified program specified in this chapter within the County of Los Angeles.

J. "Notice of violation" means a written notice issued to a handler or a business with a covered process by an authorized representative of the Forester and Fire Warden in the course of conducting an inspection which:

1. Identifies violations of the Act or deviations from minimum standards and regulations adopted pursuant to the Act;
2. Is presented to a person who is an owner or employee of the business being inspected; and
3. States the nature of the violations or deviations, the means by which compliance with the permit conditions, rules, regulations, standards, or other requirements cited by the inspector may be achieved, and a time limit in which to comply, which shall not exceed 30 days.

K. "Operator" shall have the same meaning as defined in section 25270.2(d) of Division 20 of the California Health and Safety Code.

L. "Permittee" means any person who is issued a unified program facility permit.

M. "Person" shall have the meaning set forth in section 25118 of the California Health and Safety Code and means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, district, commission, state, or any department, agency, or

political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

N. "Petroleum" shall have the same meaning as defined in section 25270.2(g) of Division 20 of the California Health and Safety Code.

O. "Spill prevention control and countermeasure plan" shall have the same meaning as defined in Part 112 (commencing with section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

P. "Tank facility" shall have the same meaning as defined in section 25270.2(m) of Division 20 of the California Health and Safety Code.

Q. "Unified program facility permit" shall have the same meaning as defined in Section 12.50.010.

12.70.020 Designation as administering agency.

The Forester and Fire Warden since the inception of the administration of the Act by the County of Los Angeles has been and is the designated administering agency for the County of Los Angeles charged with the responsibility of administering and enforcing the provisions of the Act.

12.70.030 Permit--Application requirements.

Every person, business, or business concern within the jurisdiction of the LACoCUPA falling within the requirements of this chapter shall be required annually to obtain from the LACoCUPA a unified program facility permit in accordance with Chapter 12.50 of this code and pay any fees as required by this chapter before operating a tank facility.

12.70.040 Compliance required.

Every business shall comply with the reporting requirements set forth by the LACoCUPA relating to petroleum under the Act. The required reporting includes the initial submission of the tank facility statement within 30 days of the commencement of operation of the business.

12.70.050 Annual fees to be paid by operators of a tank facility.

Beginning with the 2010-2011 fiscal year, the annual fee required to be paid to the Forester and Fire Warden by the operator of each tank facility for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Petroleum in Aboveground Storage Tanks at Each Tank Facility During the Reporting Year	Annual Fee for Each Tank Facility
I	Less than 10,000 gallons	\$154.00
II	10,000 to 100,000 gallons	\$492.00
III	100,001 to 1,000,000 gallons	\$738.00
IV	1,000,001 to 10,000,000 gallons	\$984.00
V	10,000,001 to 100,000,000 gallons	\$5,377.00
VI	More than 100,000,000 gallons	\$11,238.00
VII	Exempt Handler Less than 1,320 gallons	No Fee

Exemption:

Any person, business, or business concern which conducts, exclusively for charitable purposes, an activity for which a fee is required under this chapter and from which no person benefits through the distribution of profits, payment of excessive charges or compensation, or the more advantageous pursuit of their business or profession shall not be charged any fee. Facts supporting entitlement to such exemption from a fee requirement shall be shown by affidavit filed with the Forester and Fire Warden. Any person, business, or business concern which conducts an activity for which a fee is otherwise required to be paid by this chapter shall be deemed to qualify for a fee exemption if it complies with section 214 of the California Revenue and Taxation Code as now and hereafter amended.

12.70.060 Reinspection fees to be paid by operators of a tank facility.

Every operator of a tank facility that has been issued a notice of violation pursuant to this chapter and has failed to correct the violations or deviations by the correction date as set forth in the notice of violation may be charged a reinspection fee for each reinspection required to verify compliance with the notice of violation.

Beginning in fiscal year 2010-2011, the reinspection fee shall be \$304.00.

12.70.070 Period to which fees apply.

The annual fees required by Section 12.70.050 are based upon the information contained in the most recent required submission of the tank facility statement or inventory of hazardous materials on file with the Forester and Fire Warden at the time the fees are determined. The quantity reported is considered to be current inventory or

potential inventory unless amended as required pursuant to section 25270.6(a) of the Act. There are no provisions for partial year fees. There are no refunds for fees paid.

12.70.080 Late payment penalty.

If any fee required to be paid pursuant to Sections 12.70.050 through 12.70.070 of this chapter is not paid prior to the delinquency date as defined in Section 12.52.075, in addition to such fee, the handler shall pay a penalty equal to 40 percent of the total assessed fee(s). Date of payment is the date payment is received.

12.70.090 Late fee payment--Lien authorized when.

If any fee and late fee required to be paid by this chapter are not paid within 30 days after the delinquency date as defined in Section 12.52.075, a certificate of lien may be recorded upon all real property in the County owned or later acquired by the permittee or person liable for payment of such fee(s) and any late payment penalty as authorized by section 101345 of the California Health and Safety Code.

12.70.100 Fee schedule--annual adjustment procedure.

The fees contained in Sections 12.70.050 through 12.70.070 inclusive shall be adjusted annually by the following procedure:

The annual adjustment shall be the result of computing the change in the annualized cost to the administering agency for administering the program, where "annualized cost" is defined as the program cost which includes applicable salary, employee benefits, and overhead calculated from rates contained in the administering agency's rate package, as approved by the Auditor-Controller.

The program cost is annually reallocated among operators based upon the number of operators in each fee group and time involved in administering the program.

12.70.110 Permit--Period of validity--Renewals.

Unified program facility permits for the hazardous materials program element required by this chapter shall be issued for a period of one year. A valid permit shall be renewable from year to year upon payment, on or before the delinquency date contained in the invoice for each such year, of the fees assessed pursuant to Section 12.70.050 of this chapter, or upon payment of such fees plus any late payment penalty imposed pursuant to Section 12.70.080 of this chapter, provided the facility is in compliance with all conditions and limitations of such permit. Unified program facility permits shall be deemed to have expired if payment of the renewal fees and applicable penalties has not been made on or before the delinquency date of the invoice. The delinquency date is defined as the 61st day after the date of the invoice.

12.70.120 Disputes and appeals of assessed fee.

Any dispute or appeal of the fees and late fees described in Sections 12.70.050, 12.70.060, 12.70.080, and 12.70.090 of this chapter shall be handled in accordance with the procedures for handling disputes and appeals of unified program facility fees specified in Section 12.50.140 of the County Code.

12.70.130 Collection and accounting requirements.

All payments made pursuant to this chapter shall be collected and accounted for in accordance with the requirements of the County Treasurer-Tax Collector and the County Auditor-Controller.

12.70.140 Re-issuance of a lost permit.

Where a unified program facility permit has been lost, the chief shall issue a duplicate permit to the owner thereof upon submittal of a complete application and, in addition to any other requirements in this chapter, payment of all required and past due fee and penalties, and payment of a \$15.00 permit re-issuance fee.

12.70.150 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

[1252070SKCC]

SECTION 21. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Gloria Molina
Chair

ATTEST:

Sachi A. Hamai
Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of October 5, 2010 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Noes

Supervisors Mark Ridley-Thomas
Don Knabe
Michael D. Antonovich
Gloria Molina

Supervisors None

Effective Date: November 4, 2010

Operative Date: _____

Sachi A. Hamai
Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By [Signature]
Deputy



APPROVED AS TO FORM:
ANDREA SHERIDAN ORDIN
County Counsel

By Leela Kapur
Leela Kapur
Chief Deputy County Counsel